

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

HUNT REFINING COMPANY, a)	
corporation,)	
)	
Plaintiff,)	
)	
v.)	CASE NO: 1:23-cv-04540-ELR
)	
C AND H PAVING, INC., a)	
corporation, and BENJAMIN C.)	
CRANFORD,)	
)	
Defendants.)	

**MEMORANDUM IN SUPPORT OF PLAINTIFF’S
MOTION FOR SUMMARY JUDGMENT AGAINST
DEFENDANT BENJAMIN C. CRANFORD**

Plaintiff Hunt Refining Company (“HRC”) submits the following memorandum and attached evidence in support of its Motion for Summary Judgment:

I. INTRODUCTION

HRC sued to recover on invoices to C and H Paving, Inc. (“C and H”) that C and H failed to pay. Defendant Benjamin C. Cranford (“Cranford”) guaranteed payment of C and H’s debts to HRC including the invoices. Specifically, as an inducement for HRC to sell asphalt to C and H on credit, Cranford signed a Continuing Guaranty

Agreement (the “Guaranty Agreement”), which guaranteed C and H’s debts to HRC. The invoices have not been paid and a Consent Judgment has been entered against C and H confirming the debt owed by C and H and guaranteed by Cranford. (Doc. 32).

Cranford is in breach of the Guaranty Agreement and HRC is entitled to summary judgment on its breach of contract claim against Cranford. HRC requests final judgment against Cranford in the amount of \$912,810.70 (comprised of \$694,885.81 in principal and \$217,924.89 in interest as of May 1, 2024), plus interest at a rate of \$342.68 per day from May 1, 2024 to the date of judgment, with leave to later seek attorneys’ fees and costs of collection.

II. SUMMARY OF UNDISPUTED MATERIAL FACTS

Between April 27 and September 1, 2022, C and H purchased asphalt from HRC on credit. (Exh. A, Declaration of G. Thagard (“Thagard Decl.”), ¶ 3-6 and Attachment 1 thereto). To induce the sales to C and H on credit, Cranford executed a Guaranty Agreement in favor of HRC. (Exh. A, Thagard Decl., ¶ 6 and Attachment 3 thereto; Exh. B, Unresponded Request for Admission to Benjamin C. Cranford¹). Pursuant to the Guaranty Agreement, Cranford guaranteed “the due and punctual payment of whatever amount shall at any time be ow[ed] to [HRC] on

¹ The Request for Admission was served on January 12, 2024. Cranford has not denied or otherwise responded to the Request. It is therefore admitted pursuant to Rule 36(a)(3) of the Federal Rules of Civil Procedure.

account of products [...] sold or delivered by [HRC] to [C and H].” (Exh., A, Thagard Decl. ¶ 6 & Attachment 3.) Additionally, pursuant to the Guaranty Agreement, Cranford agreed to “indemnify and hold Hunt harmless against any loss or expense, including reasonable attorneys’ fees and disbursements” that result from C and H’s failure to pay “or that may be incurred by or on behalf of Hunt in enforcing payment of any of the liabilities against” Cranford. (Exh. A, Thagard Decl. and Attachment 3 thereto).

C and H incurred \$694,885.81 in principal debt on unpaid invoices to HRC. (Exh. A, Thagard Decl. ¶ 7). HRC has not been paid for the invoices. (*Id.* at ¶ 4-7). Further, in accordance with the invoices, interest totaling \$217,924.89 had accrued as of May 1, 2024, and interest continues to accrue at a rate of \$342.68 per day. (*See Id.* at ¶ 7; Statement of Undisputed Material Facts, ¶ 8). A Consent Judgment was entered in favor of HRC on its claims against C and H on April 23, 2024, in the amount of \$909,041.17, (Doc. 32), thus confirming the debt owed by C and H and guaranteed by Cranford.

III. ARGUMENT

Summary judgment is appropriate under Rule 56(a) of the Federal Rules of Civil Procedure when “there is no genuine issue as to any material fact ... and the moving party is entitled to judgment as a matter of law.” A movant meets its burden for summary judgment when the “the record taken as a whole could not lead a rational

trier of fact to find for the non-moving party.” *TheraTx, Inc. v. Duncan*, 234 F.3d 1240, 1245 (11th Cir. 2000) (quoting *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 467 U.S. 574, 578 (1986)).

a. Cranford is in breach of the Guaranty Agreement.

A claim for breach of contract is established when a defendant’s breach damages the plaintiff that is a party to the contract. *Norton v. Budget Rent A Car System, Inc.*, 705 S.E.2d 305, 306 (Ga. Ct. App. 2010). A breach occurs if a contracting party fails to perform as specified in the contract. *UWork.com, Inc. v. Paragon Technologies, Inc.*, 740 S.E.2d 887, 893 (Ga. Ct. App. 2013). In a suit on a personal guaranty contract, producing the guaranty agreement where the signature is admitted entitles the plaintiff to judgment as a matter of law unless the defendant can establish a defense. *See L.D.F. Family Farm, Inc. v. Charterbank*, 756 S.E.2d 593, 596 (Ga. App. 2014).

HRC has established these elements. HRC agreed to sell asphalt to C and H on credit and has satisfied all its obligations. (Exh. A, Thagard Decl. at ¶ 3). Cranford, “as inducement to Hunt to sell and extend credit to [C and H] ... unconditionally, and absolutely, guarantee[d] the due and punctual payment and maturity of whatever amount shall at any time be owing to Hunt on account of products [...] sold or delivered by Hunt to [C and H] ... whether said liabilities are in the form of open account, open account note, trade acceptance, draft of other

evidence of debt.” (Exh. A, Thagard Decl., ¶ 6 and Attachment 3 thereto; Exh. B, Unresponded Request for Admission to Cranford). Cranford signed the Agreement guaranteeing C and H’s debts to HRC. (Exh. A, Thagard Decl., ¶ 6 and Attachment 3 thereto; Exh. B, Unresponded Request for Admission to Cranford).

C and H incurred \$694,885.81 in principal debt on unpaid invoices to HRC. (Exh. A, Thagard Decl., ¶ 7). As of May 1, 2024, interest totaling \$217,924.89 had accrued on the unpaid invoices. (*Id.*; Statement of Undisputed Material Facts, ¶ 8). Interest has and continues to accrue at a rate of \$342.68 per day. (Exh. A, Thagard Decl., ¶ 8). Neither C and H nor Cranford have paid or settled the debt they owe to HRC. (*Id.* at ¶ 4-7). Therefore, Cranford is in breach of the Guaranty Agreement because he has not paid C and H’s debt to HRC.

IV. CONCLUSION

Plaintiff Hunt Refining Company is entitled to summary judgment in its favor and against Defendant Benjamin C. Cranford for its claim of breach of contract and is entitled to final judgment in the amount of \$912,810.70 (comprised of \$694,885.81 in principal and \$217,924.89 in interest through May 1, 2024), plus \$342.68 per day in interest from May 1, 2024 to the date of judgment, attorneys’ fees and costs.

Respectfully submitted this 3rd day of
May, 2024

/s/Richard H. Monk III

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CERTIFICATE OF COMPLIANCE

In compliance with N.D. Ga. R. 7.1D, I certify that the foregoing **MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT** has been prepared in conformity with N.D. Ga. R. 5.1. This motion was prepared with Times New Roman (14-point) type, with top, bottom, left, and right margins of one (1) inch. This motion is proportionally spaced and does not exceed twenty-five (25) pages.

/s/Richard H. Monk III

Richard H. Monk III

CERTIFICATE OF SERVICE

I hereby certify that dated May 3, 2024, I electronically filed a copy of the foregoing **MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT** with the Clerk of Court using the CM/ECF system, and the foregoing was served by Electronic and U.S. Mail to the following:

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